

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1513 OF 2022

Rajesh Isha Chakiri

...Applicant

V/s.

The State of Maharashtra

... Respondent

Mr.Ghanshyam Jadhav a/w Mr.Vikas B. Shivgan, for the Applicant.

Mr.Y.Y. Dabke, APP for the Respondent-State.

Mr.Ravindra Jedhe, PSI, Govandi Police Station.

CORAM : SHIVKUMAR DIGE, J.

DATE : 27th SEPTEMBER 2023

P.C:-

. By this Application, Applicant is seeking bail in Crime No.17 of 2020 registered with Govandi Police Station, Mumbai, for the offence punishable under Sections 8(c), 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS' for short).

2. It is prosecution's case that, on 3rd October 2020 at around 2.35 a.m. the Complainant noticed one Innova Motor car having No.AP-21-BL-8899 was moving in front of Natraj Lane,

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Chembur. The said vehicle was proceeding towards Panjrapole side. The Complainant intercepted the Innova car, he also informed to Senior Inspector and other police staff on night duty. Then the Complainant took search of Innova car in the presence of panchas. Notice was given to the accused persons under Section 50 of the NDPS Act. In the back seat of the car, twenty three plastic bags were found of cannabis plant. There were four persons sitting in that car. The Applicant was one of them. Upon enquiry Accused No.1 informed the police that, the vehicle belonging to Accused No.3. Thereafter, the police party opened the all 23 packets and kept all contraband into 2 plastic bagas, one plastic bag weighed 26 kgs 50 grams another plastic bag weighed 20 kgs 860 grams respectively. Thus total contraband weighed 47 kgs 110 grms. The Applicant and co-accused came to be arrested. The Bail Application of the co-accused Nos.1 to 3 were allowed under Section 167(2) of the Criminal Procedure Code.

3. It is contention of the learned counsel for the Applicant that, there is non-compliance of Section 52(A) of the

NDPS Act. The Investigating Officer has not made any Application to the Magistrate for preparing inventory. The Investigating Officer drawn the samples of contraband on the spot in the presence of panchas which is contrary to the Section 52(A) of the NDPS Act. The Applicant is in jail almost two years and eleven months. There is no progress in the trial. Charge has not been framed. Hence, requested to allow the Application.

4. The learned APP, on instructions, fairly submitted that there was no compliance of under Section 52(A) of the NDPS Act.

5. I have heard both learned counsel. Perused FIR and charge-sheet.

6. As learned APP fairly submitted that there was no compliance under Section 52(A) of the NDPS Act, as well as other co-accused have been released on bail. Applicant is behind bar more than 2 years. Investigation is completed and charge-sheet has been filed.

7. Considering the above facts, further detention of the Applicant is not required.

8. In view of above, I pass following order.

ORDER

(i) The Applicant be released on bail in Crime No.17 of 2020 registered with Govandi Police Station, Mumbai on furnishing PR bond of Rs.50,000/- with one or two sureties in the like amount.

(ii) After his release from jail the Applicant shall attend the Govandi Police Station, Mumbai once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) The Trial Court shall decide the case on its own merits and in accordance with law, uninfluenced by the observations made in this order.

(v) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)